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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

EXAMINER

DEMILLE, DANTON D

ART UNIT PAPER NUMBER

3764

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,995

Applicant(s)

DEHLI, HANS

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 16-27, 29, 41 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 28, 30-40 and 43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Election/Restrictions***

Applicant's election without traverse of claims 16-27, 29, 41 and 42 has been acknowledged and are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention.

Claim Objections

Claims 33 and 35 are objected to because of the following informalities: there is no antecedent basis for "said bracket" in these claims. It has been assumed that these claims depend from claim 32. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 28, 30-37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mathers '699. As broadly recited, Mathers teaches a massage surface 130, at least one massaging member 2 moveable along a support structure 40. The support structure 40 is moveable toward and away from the massage surface by the slot 47' in connecting plate 46. "As thus constructed, the carriage supporting tracking frame 40 and associated guide rails 41 may be swingably adjusted to place all of the rows of massage applicators 2 of the carriage in contact with the flexible liner sheet 130." (column 10, lines 43-46) This would appear to comprehend the invention as claimed. Mathers also teaches a bracket 111, 113 surrounding and pivotally coupled 43 to the support structure 40. Mathers also teaches that the massage members 2 can be balls as shown or rollers, column 5, lines 70-73.

Claim 14 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Garth.

Garth teaches a massage surface 20 and at least one massaging member 22 moveable along a support structure 44, 46. The support structure 44, 46 is moveable towards and away from the massage surface 20 by a handle 52.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mathers in view of Arndt. The slot 47' and wing nut 47" arrangement of Mathers for adjusting the position of the support structure 40 is located inside of the chair. In order to adjust the position of the support structure it would be necessary to take the chair apart to access the wing nut 47". This is very awkward and difficult to do. It would have been obvious to use a mechanism accessed from outside the chair in order to accomplish the same task. Arndt exemplifies the art of using a handle 50 to move the support structure relative to the massage surface. It would have been obvious to one of ordinary skill in the art to modify Mathers to use a handle outside the chair to adjust the support structure relative to the massage surface as taught by Arndt so that one doesn't have to disassemble the chair in order to access the means to make the adjustment.


Claims 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rene

'262. Rene teaches at least one guide rail 38 including a first raceway affixed to a support structure 36 and a second opposing raceway 40. The carriage assembly 60 includes at least one

guide wheel 90 and guide wheel 88 would comprehend the biasing member on the opposite side of the support structure to couple the carriage assembly to the guide rail. Motor 100 drives the guide wheels 90. The support structure 36 is capable of being displaced towards the receiving panel in the chair by motor 32. Bracket 14 fixes the support structure in position. The support structure is capable of achieving said positions depending on the location of the receiving panel. While it is not clear what the shape of the first and second raceways is, Rene already teaches V-shaped raceways for raceways 52. It would have been obvious to one of ordinary skill in the art to modify Rene to shape the raceways 38 and 40 just like raceways 52 to better maintain the guide wheels on the raceways.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mathers '699 in view of Buffalow '923. Mathers teaches slider shoes 17 for guiding the carriage up and down the support structure 40. In the art of providing reduced friction between a carriage and a support structure guide wheels and raceways are an obvious equivalent means of doing the same thing. Buffalow exemplifies such a teaching. Figures 4 and 5 show a couple of different ways of doing it. It would have been obvious to one of ordinary skill in the art to modify Mathers to use the guide wheel and raceway arrangement as taught by Buffalow as an obvious equivalent means of reciprocating the carriage along the support structure. The plastic parts of Mathers would wear quickly over time.

ddd
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☎ (703) 308-3713
Fax: (703) 872-9306
danton.demille@uspto.gov


Danton DeMille
Primary Examiner
Art Unit 3764